

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CHRISTIAN DAVIS,

Plaintiff,

v.

HORD,

Defendant.

No. 2:21-cv-02114-EFB (PC)

ORDER AND FINDINGS AND
RECOMMENDATIONS


Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On December 9, 2022, defendant Hord filed a motion for summary judgment. ECF No. 22. On January 25, 2023, the court warned plaintiff that failure to respond to the motion could result in a recommendation that this action be dismissed. ECF No. 26. The time for responding to the motion has passed, and plaintiff failed to file an opposition, a statement of non-opposition, or otherwise respond to the motion or the court's order. Plaintiff has disobeyed this court's orders and failed to prosecute this action. The appropriate action is dismissal without prejudice.

Accordingly, it is ORDERED that the Clerk of the Court randomly assign a United States District Judge to this action.

Further, it is RECOMMENDED that this action be dismissed without prejudice. *See* Fed. R. Civ. P. 41(b); E.D. Cal. L.R. 110.

1 These findings and recommendations are submitted to the United States District Judge
2 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
3 after being served with these findings and recommendations, any party may file written
4 objections with the court and serve a copy on all parties. Such a document should be captioned
5 “Objections to Magistrate Judge’s Findings and Recommendations.” Failure to file objections
6 within the specified time may waive the right to appeal the District Court’s order. *Turner v.*
7 *Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

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9 Dated: February 27, 2023.


EDMUND F. BRENNAN
UNITED STATES MAGISTRATE JUDGE